



State of Utah

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GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
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Merritt K. Frey
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Leland J. Myers
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Amanda Smith
Daniel C. Snarr
Jeffery L. Tucker
Walter L. Baker
Executive Secretary

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
DEQ Building Board Room #1015
195 North 1950 West
Salt Lake City, Utah 84116
Wednesday February 20, 2013

UTAH WATER QUALITY BOARD MEMBERS PRESENT

| | | |
|----------------|----------------|---------------|
| Daniel Snarr | Clyde Bunker | Paula Doughty |
| Greg Rowley | Leland Myers | Myron Bateman |
| Steven Simpson | Jeffery Tucker | Merritt Frey |

Absent: Amanda Smith, Darrell Mensel and Neal Peacock

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, John Whitehead, Leah Ann Lamb, Faye Bell, Emily Cantón, John Cook, Ed Macauley, Jodi Gardberg, Jeff Ostermiller, Bill Damery, Chris Bittner and Judy Etherington

OTHERS PRESENT

| <u>Name</u> | <u>Organization Representing</u> |
|---------------------|----------------------------------|
| Ron Bird | ERT |
| Matt Dugdale | George K. Baum & Co. |
| Brad Powell | Midvalley Improvement District |
| Rob Dubuc | WRA |
| Carlton Christensen | GSL Advisory Council |
| Justin Elsher | USU Extension |

Chair Doughty called the Board meeting to order at 10:05 a.m. and invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE JANUARY 23, 2013 MEETING

Mr. Myers noted one correction to the minutes. Under "Other Business", following the last sentence where it states, "Mr. Bittner said he would research that". The comment should be added: "It was noted that recent changes to the statute (19-5-104) requires the Board review on any civil penalty of \$25,000 or more. This will afford an opportunity for discussion of penalties".

Motion: **It was moved by Mr. Myers and seconded by Mr. Bunker to approve the minutes of the January 23, 2013 meeting with the recommended changes. The motion was unanimously approved.**

Introduction of staff: Mr. Baker introduced Jenny Nicholas who will manage the clerical and reception staff.

Executive Secretary's Report: Mr. Baker stated, that federal sequestration of funds is expected during the next fiscal year. 47% of DWQ's funds come from federal grants; 25% come from fees; and 25% come from restricted accounts. It's been the norm that when EPA has cuts it tends to pass the cuts along to the states rather than internally, affecting the State Revolving Funds, reducing grants and 319 Non-Point Source funds.

HB 215 - Water Quality Amendments. In 1991 DWQ received state general funds to manage the bio-solids program. Utah is one of six states that manages a bio-solids program. The program was originally established to share the cost 50/50 between the state and POTWs with the POTW share capped at \$28,000/yr. Representative Wilcox is sponsoring a bill to remove the cap.

SB57S –Senator Okurland is sponsoring this bill. The bill institutionalizes UDAF's Agriculture Environment Stewardship Program but does not affect DWQ's rules or statutes.

HB236 – Representative Brown/Land Development Revisions. This bill which would eliminate the ability of municipalities or counties to revegetate an area if the slope is less than 12%. This works against our Stormwater program which has as a critical part to prevent erosion and the resulting sediments from getting into Utah streams.

Miscellaneous bill (still not numbered) – A bill is being proposed by Senator Okurland that would create a water pollution task force to seat 16 members (8 from the legislature and 8 from the private sector and local government) to look at nutrient pollution and funding as it pertains to non-point source contributors. This task force would further the work of the DWQ-led Nutrient Core Team.

FUNDING REQUEST

Financial Assistance Status Report– Ms. Cantón updated the Board on the “Summary of Assistance Program Funds” as shown on page 2.1 of the Board packet.

Midvalley Improvement District Introduction – Mr. Cook introduced Matt Dugdale with George K. Baum & Company, and Brad Powell, District Engineer. Midvalley Improvement District provides services to portions of Midvale City, Sandy City, Murray City and some unincorporated areas of Salt Lake County. Midvalley Improvement District requested a \$1,645,000 loan with a repayment term of 20 years at 2.8% interest for the construction of its 2013 Pipeline Replacement Project.

Motion: **It was moved by Mr. Myers to approve Midvalley Improvement District's request for a \$1,645,000 loan with a repayment term of 20 years at 2.8% interest. The motion was seconded by Mr. Rowley and was unanimously approved.**

Great Salt Lake Advisory Funding Request – Mr. Christensen with the Great Salt Lake Advisory Council explained to the Board that in 2012, the Great Salt Lake Advisory Council (“Council”) identified waterborne pollutants as a top research priority for Great Salt Lake (GSL). Also in 2012, the Utah Division of Water Quality (UDWQ) released the GSL Water Quality Strategy for public comment. The Strategy encompasses several key components including a proposed process for developing numeric criteria for toxic substances, a short and long-term monitoring strategy, and a prioritization of research needs. The Council is in full support of UDWQ's efforts and is requesting funding from the Utah Water Quality Board to conduct two research studies necessary for strategy implementation. The Council

requested Water Quality Board funding to be used by UDWQ for the highest priority studies for strategy implementation over a 2-year study period. Funding requested was \$300,000 for toxicological testing for priority pollutants using GSL-specific species and \$100,000 for a laboratory round-robin to evaluate interlaboratory comparability for salinities greater than seawater. The total funding request was for \$400,000.

Motion: It was moved by Mr. Bunker to approve Great Salt Lake Advisory funding request for \$400,000. The motion was seconded by Mr. Bateman and was unanimously approved. Leland Myers declared a conflict of interest prior to the Board's vote.

RULEMAKING

Request to proceed with rulemaking on R317-15, 401 Water Quality Certification: Mr. Damery explained to the Board that Section 401 of the Clean Water ACT requires that any applicant for a federal permit or license to conduct an activity that will or may discharge pollutants into Waters of the United States must present the federal authority with a Water Quality Certification from the appropriate state agency. The draft rule R317-15 is needed to clarify the Water Quality Certification process. Staff also proposed to concurrently revise the 401 Certification and 404 Permit provisions found in the antidegradation section in R317-2-3, as outlined in the next agenda request.

Motion: It was moved by Ms. Frey and seconded by Mr. Bateman to approve the staff's recommendation to proceed with rulemaking on R317-215, 401 Water Quality Certification. The motion was unanimously approved.

Request to proceed to Rulemaking on 317-2, Standards of Quality for Waters of the State: Mr. Bittner explained that staff's request is to remove current references to the 401 and 404 certification processes be removed from R317-2 because this language is redundant with, and sometimes contradictory to, the draft 401 Water Quality Certification rules (R317-15 mentioned in the previous agenda request). Staff requested approval to initiate rulemaking, notify local government officials, hold a public hearing and solicit comments from the public and other interested parties, as required by statute.

Motion: It was moved by Mr. Myers and seconded by Mr. Bunker to approve staff's recommendation to proceed with rulemaking on R317-2, Standards of Quality for Waters of the State, with Merritt Frey serving as hearing officer. The motion was unanimously approved.

OTHER BUSINESS

Lower Bear River TMDL Revision: Mr. Mike Allred explained that the Division of Water Quality is revising the Total Maximum Daily Load (TMDL) Study for the Lower Bear River. The previous TMDL water quality study was completed in 2002. Since the original TMDL was developed, better information associated with pollutant source identification has been collected. These efforts will confirm whether a nutrient impairment still exists and, if needed, provide a more accurate allocation of nutrient loads. This study will be conducted with the financial support of EPA 319 funds and Utah NPS funds and is being contracted in part with Cirrus Ecological Solutions LLC. It is anticipated that a draft TMDL report and implementation plan will be ready for review by March 2014.

Operator Certification Council Appointments: The terms of service for three members of the Wastewater Operator Certification Council expired January 31, 2013. The Board approved nominees to

fill two of the positions at its January meeting. Staff recommended Richard F. Jex be appointed to fill the remaining position, representing the “Private Sector,” for the balance of the term (February 1, 2013 through January 31, 2016).

Motion: **It was moved by Mr. Bateman and seconded by Mr. Bunker to approve staff’s recommendation to fill the “Private Sector” position with Richard F. Jex. The motion was unanimously approved.**

**Next Meeting – March 27, 2012, 9:00 a.m.
DEQ Building Board Room #1015
195 North 1950 West
Salt Lake City, Utah 84116**

Chair
Utah Water Quality Board